



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/156382

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 31, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on April 24, 2014, at West Bend, Wisconsin.

NOTE: The record was held open to give the agency an opportunity to submit a copy of the case comments and a Notice of Decision that was mailed on April 18, 2014. They have been marked collectively as Exhibit 3 and entered into the record.

The issue for determination is whether the Washington County Department of Social Services correctly determined the Petitioner's FoodShare allotment effective April 1, 2014, forward.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Ken Benedum, Economic Support Specialist  
Washington County Department of Social Services  
333 E. Washington Street  
Suite 3100  
West Bend, WI 53095

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. On March 10, 2014, the agency sent Petitioner a Notice of Proof Needed, requesting verification of her income from Seek Careers Staffing. (Exhibit 2, pgs. 2-6)

3. On March 17, 2014, the Petitioner submitted an Employer Verification of Earnings Form (EVFE), indicating that the Petitioner had been laid off effective March 12, 2014 and that her final paycheck was dated March 7, 2014. (Exhibit 2, pg. 8)
4. On March 19, 2014, the agency sent the Petitioner a letter indicating that she would be ineligible for FoodShare benefits from April 1, 2014 to April 30, 2014, because she either quit, refused suitable employment or reduced work hours below 30 hours/week without good cause. (Exhibit 2, pg. 10)
5. On March 23, 2014, the Petitioner submitted an EVFE indicating that she was working 40 hours per week and earning \$9.00 per hour. This would make her income:  

$$40 \text{ Hours} \times \$9.00/\text{hour} = \$360 \text{ per week}$$

$$\$360 \times 4.3 \text{ average weeks per month} = \$1548 \text{ per month.}$$

(Exhibit 2, pg. 11)
6. On March 27, 2014, the agency sent the Petitioner a notice indicating that as of April 1, 2014, she would receive FoodShare benefits in the amount of \$15.00 per month. (Exhibit 2, pgs. 12-18)
7. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on April 4, 2013. (Exhibit 1)
8. On April 15, 2014, the Petitioner contacted the agency and indicated that she was working full time and earning \$10.00 an hour. This would make her income:  

$$40 \text{ Hours} \times \$10.00/\text{hour} = \$400 \text{ per week}$$

$$\$400 \times 4.3 \text{ average weeks per month} = \$1720 \text{ per month}$$

(Exhibit 3, pg. 2)
9. On April 18, 2014, the agency sent the Petitioner a notice, advising her that effective May 1, 2014, she would continue to receive FoodShare benefits in the amount of \$15.00 a month. (Exhibit 3, pgs. 3-8)
10. The Petitioner lives with her father, but is an assistance group size of one. (Testimony of Petitioner and Mr. Benedum)
11. The Petitioner does not pay rent, nor does she pay for any utilities. (Id.)

### DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits, though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is then based upon prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This is \$152 per month for a household of 1-3 people. *7 CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

During part of the time in question, the heating standard utility allowance (HSUA) is \$450 per month.

There is a cap of \$478.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

*FSH, §§ 4.6.7.1 and 8.1.3.*

The term 'disabled' is a term with a definition as to the FoodShare program:

### **3.8.1.1 EBD Introduction**

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

*FSH, §3.8.1.1.*

The Petitioner argues that the agency's calculation of her income was not correct. However, the agency acted on the best information that it had available: the EVFE indicating that the Petitioner was earning \$9.00 an hour and working 40 hours per week. As such, the agency correctly relied upon that information to determine Petitioner's income.

Applying the applicable deductions to Petitioner's income we have the following net income calculation, effective April 1, 2014:

Gross Income	\$1548.00	Rent	\$0
Earned Income Deduction	309.60	HSU	+\$450
Standard Deduction	-\$152.00	50% Net income	-\$543.20
No Medical Expenses exceeding \$35			
No Dependent Care Expenses		Excess Shelter Expense	\$0
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Net Income	\$1086.40		
Excess Shelter Expense	- \$0.00		
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Net Income	\$1086.40		

Individuals, in an assistance group size of one, with a net income of \$1086.40 qualify for a FoodShare allotment of \$15.00 per month. *FSH §8.1.2.* The \$400 per week income that the Petitioner self-reported on April 15, 2014, does not change that outcome.

If Petitioner's income is now different or has changed, she will have to provide verification of that change to the agency so that it can make a new allotment determination.

### **CONCLUSIONS OF LAW**

The agency correctly determined the Petitioner's FoodShare allotment effective April 1, 2014, forward.

**THEREFORE, it is**

**ORDERED**

That the Petition is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change

the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 9th day of May, 2014.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on May 9, 2014.

Washington County Department of Social Services  
Division of Health Care Access and Accountability